

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PUBLIC HEARING ON
of ARM 17.24.116 pertaining to)	PROPOSED AMENDMENT
application requirements for)	
operating permit)	(HARD ROCK MINING)

TO: All Concerned Persons

1. On January 10 and 11, 2006, the Board of Environmental Review will hold public hearings to consider the proposed amendment of the above-stated rule. On January 10, 2006, the hearing will begin at 10:00 a.m. at Fellowship Hall, 213 West Centennial Avenue, Boulder, Montana. On January 11, 2006, the hearing will begin at 8:00 a.m. at the Fort Belknap Bingo Hall, Fort Belknap, Montana.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in these public hearings or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m., December 19, 2005, to advise us of the nature of the accommodation that you need. Please contact the Board Secretary at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or email ber@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

17.24.116 OPERATING PERMIT: APPLICATION REQUIREMENTS

(1) through (5) remain the same.

(6) The reclamation plan must conclusively demonstrate that, after the period of time allotted by 82-4-336(3), MCA, no treatment of surface or ground water for carcinogens or toxins will be required to meet water quality standards at the point of discharge. For the purposes of this section, completion of mining operations is defined in ARM 17.24.150(1) and (2).

AUTH: 82-4-321, MCA

IMP: 82-4-336, MCA

REASON: Article IX, Section 1, of Montana's Constitution provides that "[t]he State and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations." Article IX, Section 2, provides "[a]ll lands disturbed by the taking of natural resource shall be reclaimed."

Section 82-4-336(10), MCA provides that "[t]he reclamation plan must provide sufficient measures to ensure public safety and to prevent the pollution of air and water and the degradation of adjacent lands." Section 82-4-336(12), MCA provides that a reclamation plan must "provide measures to prevent objectionable postmining ground water discharges." Use

of the term "prevent" may preclude perpetual water treatment.

Perpetual water treatment will be necessary at a number of previously permitted mines. The Zortman and Landusky Mines, the Beal Mountain Mine, and the Golden Sunlight Mine will require perpetual water treatment. Perpetual water treatment may be necessary at the Black Pine and the Kendall Mines. Because of the bankruptcy of Pegasus Gold Corporation, the taxpayers will pay significant portions of the cost of perpetual water treatment at the Zortman and Landusky and Beal Mines.

Funding of the perpetual water treatment is provided through trust funds provided by the mining company and, where that is not sufficient, through trust funds established using tax funds. One difficulty with funding perpetual water treatment is that it is difficult to determine the cost of treatment prior to completion of mining because the post-mining concentration of pollutants cannot be projected precisely at the time of permit issuance when the amount of the reclamation bond is set. For example, at the Beal Mine, the chemistry of the pad solution evolved after closure, and the water treatment plan approved under the operating permit was not effective.

The amendment to ARM 17.24.116 is proposed to ensure that water pollution is prevented and to implement the requirement that reclamation is completed within two years of completion of mining. This rule would ensure the problems described above don't arise in the future by expressly prohibiting use of perpetual water treatment in a reclamation plan to meet water quality standards for toxins and carcinogens.

4. Concerned persons may submit their data, views or arguments, either orally or in writing, at the hearings. Written data, views or arguments may also be submitted to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana, 59620-0901; faxed to (406) 444-4386; or emailed to ber@mt.gov, no later than 5:00 p.m., January 18, 2006. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. The Board of Environmental Review will preside over and conduct the hearings.

6. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage

tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; emailed to ber@mt.gov; or may be made by completing a request form at any rules hearing held by the Board.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

John F. North

JOHN F. NORTH

Rule Reviewer

BY: Joseph W. Russell

JOSEPH W. RUSSELL, M.P.H.,

Chairman

Certified to the Secretary of State August 29, 2005.